

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

*In Re Boston Scientific Corp.
Pelvic Repair System Products Liability Litigation
MDL No. 2326*

Civil Action No. 2:15-cv-06134

SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for their Complaint against the Defendants named below, incorporate The Master Complaint in MDL No. 2326 by reference. Plaintiff(s) further show the Court as follows:

1. Female Plaintiff:

Tracey McComas

2. Plaintiff Husband (if applicable):

Timothy McComas

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

N/A

4. State of Residence:

West Virginia

5. District Court and Division in which venue would be proper absent direct filing:

United States District Court for the Southern District of West Virginia

6. Defendants (Check Defendants against whom Complaint is made):

☒

A. Boston Scientific Corporation

☐

B. American Medical Systems, Inc. ("AMS")

☐

C. Johnson & Johnson

- ☐ D. Ethicon, Inc.
- ☐ E. C.R. Bard, Inc. ("Bard")
- ☐ F. Sofradim Production SAS ("Sofradim")
- ☐ G. Tissue Science Laboratories Limited ("TSL")
- ☐ H. Mentor Worldwide LLC
- ☐ I. Coloplast Corp.
- ☐ J. Cook Incorporated
- ☐ K. Cook Biotech, Inc.
- ☐ L. Cook Medical, Inc.
- ☐ M. Desarrollo e Investigación Médica Aragonesa, S.L. ("DIMA")
- ☐ N. Neomedic International, S.L.
- ☐ O. Neomedic Inc.
- ☐ P. Specialties Remeex International, S.L.

7. Basis of Jurisdiction:

- ☒ Diversity of Citizenship
- ☐ Other: _____

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

Paragraphs 3-6

B. Other allegations of jurisdiction and venue

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff)

- ☐ The Uphold Vaginal Support System;
- ☐ The Pinnacle Pelvic Floor Repair Kit;
- ☐ The Advantage Transvaginal Mid-Urethral Sling System;
- ☐ The Advantage Fit System;

- ☐ The Lynx Suprapubic Mid-Urethral Sling System;
- ☐ The Obtryx Transobturator Mid-Urethral Sling System;
- ☐ The Prefyx PPS System;
- ☐ The Solyx SIS System; and/or
- ☒ Other

Repliform (x2)

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products)

- ☐ The Uphold Vaginal Support System;
- ☐ The Pinnacle Pelvic Floor Repair Kit;
- ☐ The Advantage Transvaginal Mid-Urethral Sling System;
- ☐ The Advantage Fit System;
- ☐ The Lynx Suprapubic Mid-Urethral Sling System;
- ☐ The Obtryx Transobturator Mid-Urethral Sling System;
- ☐ The Prefyx PPS System;
- ☐ The Solyx SIS System; and/or
- ☒ Other

Repliform (x2)

10. Date of Implantation as to Each Product:

January 6, 2004; January 14, 2011

11. Hospital(s) where Plaintiff was implanted (including City and State):

St. Mary's Medical Center, Huntington, WV

12. Implanting Surgeon(s):

Rocco Morabito, M.D. (2004)

Shlomo Raz, M.D.; Lisa Rogo-Gupta M.D. (assisted) (2011)

13. Counts in the Master Complaint brought by Plaintiff(s)

- ☒ Count I - Negligence
- ☒ Count II – Strict Liability – Design Defect
- ☒ Count III – Strict Liability – Manufacturing Defect
- ☒ Count IV – Strict Liability – Failure to Warn
- ☒ Count V – Breach of Express Warranty
- ☒ Count VI – Breach of Implied Warranty
- ☒ Count VII (by the Husband) – Loss of Consortium
- ☒ Count VIII – Discovery Rule, Tolling and Fraudulent Concealment
- ☒ Count IX – Punitive Damages
- ☒ Other Count X – Consumer Protection Violation If Plaintiff asserts additional claims, please state the factual and legal basis for these claims below):

The conduct of Defendant as alleged in the Master Complaint additionally violates the consumer protection laws codified at Chapter 46A of the West Virginia Consumer Credit and Protection Act (§46A-6-101 et seq.)

- ☐ Other Count _____ If Plaintiff asserts additional claims, please state the factual and legal basis for these claims below):
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Dated: May 13, 2015

BARON & BUDD, P.C.

Address and bar information:

/s/ Stephen Blackburn

Laura Baughman (TX Bar #00791846)
Stephen T. Blackburn (CA SBN 232887)
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